IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

C.W.P. No. 4798 of 2005
Date of decision: November 30, 2006

Arjan Dass .....Petitioner

Versus

The Commissioner, Rohtak Division, Rohtak and Ors. .....Respondents

CORAM: HON'BLE MR. JUSTICE ASHUTOSH MOHUNTA
HON'BLE MRS. JUSTICE NIRMAL YADAV

Present: Mr. Ashish Aggarwal, Advocate
for the petitioner

-.-

ASHUTOSH MOHUNTA, J (Oral)

The petitioner has impugned the orders dated 21.05.1993 (Annexure P-9) and dated 23.08.2002 (Annexure P-10), respectively, by which the petitioner was ordered to be evicted from the land in dispute and was also ordered to pay a penalty of Rs.8,000/- per acre, per year for the time he remained in unauthorized occupation of the land in dispute.

Learned counsel for the petitioner contends that the penalty cannot be imposed on the petitioner without their being any show cause notice or affording reasonable opportunity of being heard to him.

Learned counsel for the petitioner also relies on a judgment in *Karnail Singh Versus Sub Divisional Officer(Civil)-cum- Collector, District Sirsa and Others* **2002(2) P.L.J. 38**, wherein it has been held that where neither any assessment of damages is made in accordance with the prescribed principles nor any notice or opportunity has been given, then there would be non-compliance of the mandatory provisions of Section 7 read with Rule 6

of the Haryana Public Premises and Land (eviction and rent Recovery) Rules, 1973.

As far as eviction of the petitioner from the land in dispute is concerned, the writ petition was already dismissed by this Court vide order dated 24.03.2005. However, the present writ petition survives only on the limited point i.e. whether the penalty imposed on the petitioner is in accordance with law or not.

A perusal of the impugned orders (Annexures P-9 and P-10) clearly shows that the assessment of damages has not been made in accordance with the prescribed principles nor any opportunity of hearing was given to the petitioner.

In view of the above, we set aside the impugned orders (Annexures P-9 and P-10) to the extent of imposition of penalty and remand the case back to the Collector, Karnal, for assessing the penalty to be imposed on the petitioner, in accordance with law.

The parties are directed to appear before the Collector, Karnal, on 04.01.2007.

The writ petition is disposed of accordingly.

(ASHUTOSH MOHUNTA)
JUDGE

(NIRMAL YADAV)
JUDGE

November 30, 2006
mohan